IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No. 783 of 1997

Date of decision : 6 -9-2006

Smt.Sushma Sarin and others … Appellants

Versus

Padam Chand and others . … Respondents

CORAM:- HON'BLE MR. JUSTICE ARVIND KUMAR

Present: Mr. Munishwar Puri, Advocate,
for the appellants

Mr. Vinod Chaudhary, Advocate
for the insurance company.

…

JUDGMENT:

This appeal is by one set of claimants, directed against award dated 6.9.1996 passed by the Motor Accident Claims Tribunal, Ambala.

In brief, the facts of the case are that on 18.7.1993 deceased Sanjiv Sarin, whose parents and sister have preferred the instant appeal, was going along with Gautam Trehan, Rakesh Kumar, Ravinder Singh, Darshan Singh, Ranjit, Rajesh and Sanjay to Timber Trail Resort near Parwanoo in Mohindra jeep bearing registration No.PB-11D-9229. After having their dinner and attending some function, they were returning back to Panchkula. The said jeep was being driven by Rakesh Kumar. When they reached some distance ahead of bus-stop of Chandi Mandir, a truck bearing registration No.HR-03-8109 came at a fast speed from the side of Panchkula and in a rash and negligent manner struck against the jeep which was on its correct side of the road. The truck then struck against a Khokha and damaged it completely and stopped more than 100 yards away

from the spot. After causing the accident, the driver of the truck ran away after leaving the truck at the spot. As a result of the accident, Sanjiv Sarin, Gautam Trehan, Rakesh Kumar and Darshan Kumar sustained injuries and were rushed to PGI Chandigarh. However, Sanjiv Sarin and Gautam Trehan succumbed to their injuries. The matter was also reported to the police and an FIR was got registered under Sections 279/304-A IPC. Thereafter, four claim petitions came to be filed for claiming compensation; two were filed on account of death of Sanjiv Sarin and Gaurav Trehan while the other two were filed by the injured Rakesh Kumar and Darshan Kumar.

Upon notice of the claim petitions, separate sets of written statements were filed by the respondents. The owner and driver of the offending truck, who filed joint written statement, took up the plea that the accident occurred due to negligence of Rakesh Kumar, driver of the jeep. However, they claimed that the truck was insured with Oriental Insurance Company. Respondent-Oriental Insurance Company denied its liability to pay compensation on the ground that the truck driver did not possess a valid driving licence, registration certificate, route permit etc. It also took up the stand that the driver of the jeep too was not holding a valid driving licence, registration certificate etc. It was thus, claimed that it was a case of contributory negligence as both the drivers were driving their vehicle rashly and negligently.

Upon pleadings of the parties, issues were struck. The learned Tribunal on appreciation of oral as well as documentary evidence adduced on record, allowed all the four claim petitions and granted compensation of Rs.1,95,000/- to the claimants in the case of deceased Sanjiv Sarin; Rs.1,20,000/- to the claimants in the case of deceased Gautam Trehan; Rs.1,15,000/- to injured Rakesh Kumar and Rs.1,70,000/- to injured Darshan Kumar. However, the amount so awarded to the claimants in these four claim petitions was ordered to be deposited in long term fixed deposit in nationalized bank, initially for a period of five years, but the interest accruable thereon was ordered to be paid to the claimants every month.

Aggrieved by the quantum of compensation awarded in the case of deceased Sanjiv Sarin, the claimants, namely, his parents and sister, have filed the present appeal.

Deceased Sanjiv Sarin, an unmarried man, was aged about 27 years at the time of his death and was stated to be the only son of his parents. He was serving with CMC Limited as an Executive. He had done B.E. in Electronics and Communications. As per certificate, Exhibit P-2, proved by PW-1, Rohit Agnihotri, Manager, CMC Limited, he deceased was getting Rs.6351.37P as salary apart from annual perks of Rs.14,350/-, which was consumable in nature, viz., outfit expenses, books and periodicals, medical expenses, house maintenance expenses and small family incentive. The Tribunal assessed the monthly dependency of the deceased at Rs.2000/-. Appellants have sought enhancement of compensation on account of future prospects of the deceased. In this context, PW-1 Rohit Agnihotri, Manager, has also proved certificate Exhibit P-3 that the performance of Sanjiv Sarin was consistent to the entire satisfaction of the company and had he survived, he could occupy the highest post of the company. In this case, the parents were the main claimants who were in their late fiftees at the time of death of their son Sanjiv Sarin. The father, V.K.Sarin, a retired Air Commodore, in his cross-eexamination stated that he was also getting commuted pension of Rs.1700/- per month. He also admitted that the marriage of his son Sanjiv Sarin was to be arranged ½ years. It is quite obvious that after marriage, he would have his wife and possibly children to look after and in that eventuality, a substantial amount would have been diverted for the maintenance of his family. In this situation, it is a case for marginal enhancement of compensation on account of future prospects. Middle course in my opinion would meet the ends of justice. Thus, the monthly dependency stands enhanced to Rs.2500/-. The multiplier is to be applied while taking into consideration the years of dependency of the parents. In this case, at the time of death of Sanjiv Sarin, his parents were in their late fiftees and as such, multiplier of 8 so applied by the Tribunal is adequate and thus, needs no interference. Accordingly, by taking the monthly dependency at Rs.2500/-, the compensation is worked out which comes to Rs. 2,40,000/- (2500x12x8), i.e. Rs.48,000/- over and above the amount awarded by the Tribunal. It is ordered accordingly.

Richa Sarin, sister of deceased Sanjiv Sarin, is stated to be married. Thus, in the presence of the parents, she is not entitled to any

enhanced compensation. Accordingly, the enhanced compensation would be shared equally by the appellant-parents of the deceased.

Coming to the rate of interest, previously it used to be 12 per cent, however, in the recent years the bank rates have been considerably reduced and the rate of interest is being awarded at the rate of 7-1/2 per cent in view of the judgment of the Supreme Court in Tamil Nadu State Transport Corporation Limited v. S.Rajapriya and others, (2005-2) P.L.R. 650. Therefore, in that back-drop of the situation, the enhanced compensation in both cases shall carry interest at the rate of 9 per cent per annum from the date of filing of the claim petition till its payment.

In view of the above, the impugned award stands modified in the manner indicated above. The appeal stands disposed of accordingly. No costs.

(ARVIND KUMAR)
JUDGE

September 6 , 2006
JS